

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 382

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-22-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 1. This chapter applies to the following:

- (1) Each county having a consolidated city.
- (2) Each city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
- (3) Each county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).
- (4) Each county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).
- (5) Each county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
- (6) Each county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).**

SECTION 2. IC 8-22-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 2. As used in this chapter, "commission" refers to the following:

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(1) With respect to a county having a consolidated city, the metropolitan development commission acting as the redevelopment commission of the consolidated city, subject to IC 36-3-4-23.

(2) With respect to a city described in section 1(2) of this chapter, the board of the airport authority for the city.

(3) With respect to a county described in section 1(3) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(4) With respect to a county described in section 1(4) or 1(5) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(5) With respect to a county described in section 1(6) of this chapter, the board of an airport authority that is established by the county.

SECTION 3. IC 8-22-3.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 2.5. Notwithstanding IC 8-22-1-6, as used in this chapter, "eligible entity" refers to any of the following:

(1) A consolidated city.

(2) A city described in section 1(2) of this chapter.

(3) A city in a county described in section 1(3) of this chapter.

(4) A county described in section 1(4) of this chapter.

(5) A city located in a county described in section 1(4) of this chapter.

(6) A county described in section 1(5) of this chapter.

(7) A city located in a county described in section 1(5) of this chapter.

(8) A county described in section 1(6) of this chapter.

SECTION 4. IC 8-22-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 3. (a) As used in this chapter, "qualified airport development project" means an airport development project that has a cost of the project (as defined in IC 4-4-10.9-5) greater than:

(1) five hundred million dollars (\$500,000,000), if the project is to be located in a county having a consolidated city; **or**

(2) two hundred fifty thousand dollars (\$250,000), if the project is to be located in:

(A) a city described in section 1(2) of this chapter; **or**

(B) in a county described in section 1(3), **or** 1(4), **1(5), or 1(6)** of this chapter.

~~(3) five hundred thousand dollars (\$500,000), if the project is to~~

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be located in a county described in section 1(5) of this chapter and is on the airport property; or
 (4) two million dollars (\$2,000,000) if the project is to be located in a county described in section 1(5) of this chapter and is located outside of the airport property but within the area described in IC 8-22-3.5-5(f);

Except as provided by subsection (b), the term includes any portion or expansion of the original qualified airport development project used by one (1) or more successor tenants.

(b) For purposes of section 9 of this chapter, the definition of "qualified airport development project" does not include any portion of, or expansion of, the original qualified airport development project used by a successor tenant unless the commission adopts a resolution to amend the definition to include that portion or expansion.

SECTION 5. IC 8-22-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 5. (a) ~~Except as provided in subsection (f);~~ The commission may designate an area within the jurisdiction of an airport authority under IC 8-22-3 as an airport development zone if the commission finds by resolution the following:

(1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the airport authority should be declared an airport development zone.

(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

(b) If the airport development zone will be located in a consolidated city or in a county described in section 1(3), 1(4), ~~or 1(5), or 1(6)~~ of this chapter, the resolution adopted under subsection (a) must also include a finding that there has been proposed a qualified airport development project to be located in the airport development zone, with the proposal supported by:

(1) financial and economic data; and

(2) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(c) If the airport development zone will be located in a city described in section 1(2) of this chapter, the resolution adopted under subsection (a) must also include findings stating that the most recent federal decennial census for the city indicates that:

(1) the unemployment rate for the city is at least thirteen percent

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(13%);

(2) the population of the city has decreased by at least ten percent (10%) as compared to the population reported in the preceding federal decennial census for the city;

(3) the median per capita income for city residents does not exceed eighty percent (80%) of the median per capita income for all residents of the United States; and

(4) at least twenty-five percent (25%) of the population of the city is below the federal income poverty level (as defined in IC 12-15-2-1).

(d) The resolution adopted under subsection (a) must describe the boundaries of the area. The description may be by reference to the area's location in relation to public ways or streams, or otherwise, as determined by the commission.

(e) If the airport development zone will be located in a county described in section 1(4), ~~or 1(5)~~, **or 1(6)** of this chapter, the resolution adopted under subsection (a) and any qualified airport development project to be located in the airport development zone, must be approved by the executive of:

(1) the county, if the entire airport development zone or qualified airport development project will be located outside the boundaries of any municipality located in the county;

(2) a municipality located in the county, if the entire airport development zone or qualified airport development project will be located within the boundary of the municipality; or

(3) the county and a municipality located in the county, if the airport development zone or qualified airport development project will be located within the boundary of the county and in part within the boundary of the municipality.

~~(f) If the airport development zone will be located in a county described in section 1(5) of this chapter, the commission may designate the airport plus the area outside of the airport property but not to exceed a total area of three (3) square miles as an airport development zone; if the commission finds by resolution the following:~~

~~(1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the airport authority should be declared an airport development zone.~~

~~(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.~~

SECTION 6. IC 8-22-3.5-9, AS AMENDED BY P.L.246-2005,

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SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 9. (a) As used in this section, "base assessed value" means:

- (1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 **or 9.5** of this chapter, notwithstanding the date of the final action taken under section 6 of this chapter; plus
- (2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) ~~Except in a county described in section 1(5) of this chapter,~~ A resolution adopted under section 5 of this chapter and confirmed under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

(c) The allocation provision must:

- (1) apply to the entire airport development zone; and
- (2) require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).

(d) ~~Except in a county described in section 1(5) of this chapter,~~ and as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

- (1) the assessed value of the tangible property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

(e) ~~Except in a county described in section 1(5) of this chapter,~~ All of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development

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zone and, when collected, paid into special funds as follows:

(1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.

(2) The commission may determine that a portion of tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds of the airport authority for a qualified airport development project, to the payment of leases for a qualified airport development project, or to the payment of principal and interest on bonds issued by an eligible entity to pay for qualified airport development projects in the airport development zone or serving the airport development zone.

(3) Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1) and (2) shall be allocated to a project fund and dedicated to the reimbursement of expenditures made by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(f) ~~Except in a county described in section 1(5) of this chapter,~~ If the tax proceeds allocated to the project fund in subsection (e)(3) exceed the amount necessary to satisfy amounts required under subsection (e), the excess in the project fund over that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(g) ~~Except in a county described in section 1(5) of this chapter,~~ When money in the debt service fund and in the project fund is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the airport authority for the financing of qualified airport development projects, all lease rentals payable on leases of qualified airport development projects, and all costs and expenditures associated with all qualified airport development projects, money in the debt service fund and in the project fund in excess of those amounts shall be paid to the respective taxing units in the manner prescribed by subsection (d).

(h) ~~Except in a county described in section 1(5) of this chapter,~~ Property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection

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(e)(2).

(i) ~~Except in a county described in section 1(5) of this chapter, and~~ Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.

(j) ~~Except in a county described in section 1(5) of this chapter, and~~ Notwithstanding any other law, the assessed value of all taxable tangible property in the airport development zone, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the tangible property as valued without regard to this section; or
- (2) the base assessed value.

SECTION 7. IC 8-22-3.5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: **Sec. 9.5. (a) This section applies to a commission located in a county described in section 1(5) of this chapter.**

(b) The commission may amend a resolution adopted before January 1, 2006, under section 5 of this chapter to include a provision with respect to the allocation and distribution of property taxes.

(c) For purposes of determining the allocation and distribution of property taxes under this chapter, the "base assessed value" means the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's amended resolution adopted under this section.

(d) An amendment adopted under this section must be approved by the executive of:

- (1) the county, if the entire airport development zone is located outside the boundaries of any municipality located in the county;**
- (2) a municipality located in the county, if the entire airport development zone is located within the boundary of the municipality; or**
- (3) the county and a municipality located in the county, if the airport development zone is located within the boundary of the county and partly within the boundary of the municipality.**

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SECTION 8. IC 8-22-3.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 10. (a) Except ~~in a county described in section 4(5) of this chapter and except~~ as provided in subsection (d), if the commission adopts the provisions of this section by resolution, each taxpayer in the airport development zone is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in May and November of that year. Except as provided in subsection (d), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the airport development zone:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

- (A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by
- (B) the STEP ONE sum.

STEP THREE: Multiply:

- (A) the STEP TWO quotient; by
- (B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the special funds under section 9 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the special funds under section 9 of this chapter.

(b) The additional credit under subsection (a) shall be:

- (1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of an airport development zone; and
- (2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in an airport development zone who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies

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shall be stated on the notice.

(d) This subsection applies to an airport development zone only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an airport development zone is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 9. IC 8-22-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 12. (a) Notwithstanding any other law, a taxpayer in an airport development zone is not entitled to a credit for property tax replacement under IC 6-1.1-21-5.

(b) Notwithstanding subsection (a), in a county described in section 1(5) of this chapter, a taxpayer is entitled to a property tax replacement credit under IC 6-1.1-21-5 for the portion of property taxes for which an inventory tax credit under section 16 of this chapter is not allowed.

(c) An amount equal to the total of all inventory tax credit available under section 16 of this chapter shall be excluded from the total county tax levy under IC 6-1.1-21-2(g).

SECTION 10. IC 8-22-3.5-14, AS AMENDED BY P.L.4-2005, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 14. (a) This section applies only to an airport development zone that is in a:

- (1) city described in section 1(2) of this chapter; or
- (2) county described in section 1(3), ~~or~~ 1(4), ~~or~~ 1(6) of this chapter.

(b) Notwithstanding any other law, a business or an employee of a business that is located in an airport development zone is entitled to the benefits provided by the following statutes, as if the business were located in an enterprise zone:

- (1) IC 6-1.1-20.8.
- (2) IC 6-3-2-8.
- (3) IC 6-3-3-10.
- (4) IC 6-3.1-7.
- (5) IC 6-3.1-9.
- (6) IC 6-3.1-10-6.



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(c) Before June 1 of each year, a business described in subsection (b) must pay a fee equal to the amount of the fee that is required for enterprise zone businesses under IC 5-28-15-5(a)(4)(A). However, notwithstanding IC 5-28-15-5(a)(4)(A), the fee shall be paid into the debt service fund established under section 9(e)(2) of this chapter. If the commission determines that a business has failed to pay the fee required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(d) A business that receives any of the benefits described in subsection (b) must use all of those benefits, except for the amount of the fee required by subsection (c), for its property or employees in the airport development zone and to assist the commission. If the commission determines that a business has failed to use its benefits in the manner required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(e) If the commission determines that a business has failed to pay the fee required by subsection (c) or has failed to use benefits in the manner required by subsection (d), the commission shall provide written notice of the determination to the department of state revenue, the department of local government finance, and the county auditor.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2007]: IC 8-22-3.5-16; IC 8-22-3.5-17.

SECTION 12. **An emergency is declared for this act.**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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